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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,128	08/28/2000	Seiya Ohta	1232-4641	7072

7590 08/12/2004

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345 Park Avenue  
New York, NY 10154

EXAMINER

HERNANDEZ, NELSON D

ART UNIT	PAPER NUMBER
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2612

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DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/649,128

Applicant(s)

OHTA, SEIYA

Examiner

Nelson D. Hernandez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,7,9 and 25-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2,6,8,10-12,16,17,21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner..
- 10) ☒ The drawing(s) filed on 28 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 4, 5, 7, 9 and 25-39 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on June 2, 2004.
2. Applicant's election with traverse of Species 2 in the reply filed on June 2, 2004 is acknowledged. The traversal is on the ground(s) that Species 1-8 (Figures 1-21) are properly presented in the same application and that no serious burden on the Examiner exists. This is not found persuasive because the claims directed to patentably distinct species of the claimed invention:
  - Species 1 (Figs. 1-4)
  - Species 2 (Figs. 5-9)
  - Species 3 (Figs. 10-11)
  - Species 4 (Fig. 12)
  - Species 5 (Fig. 13)
  - Species 6 (Figs. 14-17)
  - Species 7 (Figs. 18-19)
  - Species 8 (Figs. 20-21)The requirement is still deemed proper and is therefore made FINAL.
3. Applicant is reminded that upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in

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dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. Claims 13-15, 18-20, 23 and 24 are withdrawn from further consideration because they depend on non-elected claims 4, 5, 7 and 9. Claims 13, 18 and 23 depend on claim 5, which, depends on non-elected claims 4. Claims 14, 19 and 24 depend on non-elected claim 7. Claims 15 and 20 depend on non-elected claim 9.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Hashimoto, US Patent 6,249,317 B1.

Regarding claim 1, Hashimoto discloses a focus adjustment apparatus (See figs. 12A and 12B) comprising: a color component signal forming circuit (Fig. 12, items 4, 5 and 6) for forming a plurality of color component signals corresponding to predetermined different color components (Fig. 12, items R1, G1 and B1) of object light received through an optical system (Fig. 12: 3); and a focus adjustment signal forming circuit (Microcomputer in fig. 12: 21) for forming a signal for focus adjustment on the

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basis of a signal formed by changing a ratio of the plurality of color component signals formed by said color component signal forming circuit (Col. 5, lines 3-23; col. 6, lines 49-55; col. 9, lines 22-63; col. 10, lines 7-20; col. 11, line 42 – col. 12, line 6; col. 12, lines 38-61; col. 13, lines 46-54; col. 17, lines 26-41; col. 21, lines 26-54).

Regarding claim 3, Hashimoto discloses that the focus adjustment signal forming circuit forms the signal for focus adjustment on the basis of a signal formed by synthesizing the plurality of color component signals in accordance with the ratio (Col. 20, line 63 – col. 21, line 34; also col. 9, lines 34-47).

#### ***Allowable Subject Matter***

7. Claims 2, 6, 8, 10, 11, 12, 16, 17, 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson D. Hernandez whose telephone number is (703) 305-8717. The examiner can normally be reached on 8:30 A.M. to 6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nelson D. Hernandez  
Examiner  
Art Unit 2612

NDHH  
August 6, 2004



NGOC-YEN VU  
PRIMARY EXAMINER